

TOWN OF FOXBOROUGH
SELECTMEN'S MEETING
MINUTES
November 5, 2013

Members Present: Mark Sullivan, Chairman
Lorraine Brue, Vice Chairman
John Gray, Clerk
Ginny Coppola
James DeVellis

Others Present: Acting Town Manager Bob Cutler

The meeting was brought to order at 7:00 p.m. by Mark Sullivan, Chairman. Chairman Sullivan reviewed the agenda.

Continued Public Hearing – Alteration of Premise of All Alcohol Restaurant License from NPS LLC 1 Patriot Place

The applicant was represented by Atty. Jim Cobrey, Atty. Steve Miller and Manager James Nolan.

At last week's meeting Mr. Nolan reviewed the licenses and policies and procedures for the handling of the alcohol service at the stadium. Procedurally they are treated as one license. Last spring, one of the stadium licenses was transferred to the Saga Restaurant. Now they would like to be able to move the license assigned to the Dana Farber Field House and transfer it to a new establishment, Splittsville. This license has been in use and operation since before Gilette Stadium.

Mr. Nolan reviewed their policy for having stadium patrons report any issues via a text messaging system; this ad runs every five minutes during Patriot games. He also noted that letters of dis-invite that are sent to unruly patrons who cause problems. In order to be allowed back to the stadium, they need to take a four hour online awareness course; then it is still under the discretion of stadium management if they are allowed back.

Mr. Nolan feels that this transfer will have no impact on abutters or neighbors as there will be no changes to stadium operations.

Steve Tierney of Elm Street and a seven year resident of town stated that he looked up Splittsville and feels it would be a good family place for his 15, 11 and 9 year old children. He would welcome this family venue and feels it would be beneficial to town.

Brian Bellow, President of the New England Revolution Soccer Team organization, stated that his team does use the hospitality aspect of the Field House and it is critical to his operations. He is in charge of attracting other soccer events such as the World Cup soccer teams, and it is a competitive bidding process. They have helped generate approximately \$140,000 in user charges for the town and over \$1 million in non-Revolution Soccer events. He stated that the hospitality section is needed on the day of the games and also for training sessions. Mr. Bellow

also noted that he would utilize the Splitsville facility for Revolution activities as well as for his family's personal use.

Matt Light of the Matt Light Foundation stated that his foundation hosted an event at the Dana Farber Field House last summer to help raise funds for his foundation. The ability to have alcohol service was helpful for the event and he would like to be able to utilize the space again in the future. He also noted that his kids would like the new bowling facility.

Police Chief Ed O'Leary noted that the license goes back to the horse racing facility that was there, they had two licenses, one for the track and one for the kitchen. He also noted that the existing fence line covers the field house perimeter and they use the same entrance for stadium events.

Atty. Steve Miller submitted a memo to the Board and reviewed it with the Board. He stated that since the license was granted to the stadium in 2003 there have been no problems or violations. Mr. Nolan addressed the security procedures with the Board and all the policies and procedures will remain the same. The Public Need has not changed and the premises will remain the same. He stated that all ABCC regulations in regards to alteration of premises have been followed and asks for approval of this transfer.

He noted that they would need to come back to the Board if there are any other structures ever proposed for the site. He also noted that anyone using the bubble on game days stay in the fenced in area until it is time to go to the game.

Ms. Coppola stated that if this alteration is not granted, they would still be able to come to the Board for One Day Beer and Wine Licenses as necessary.

A motion to close the Public Hearing was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

Mr. Gray had some facts to consider when issuing a liquor license that he read into the record.

The Board asked when the practice field was incorporated into the stadium area. Mr. Nolan stated that it was done in 2003.

Mr. DeVellis asked if this alteration is in compliance with the ABCC. Att. DeLuca stated he evaluated the application but it is up to the Board to evaluate the application also. He did note that MGL Chapter 10 Section 74 deal with Certificate of Inspections required for Liquor Licenses as it deals with multiple structures on a premise. The Board needs to evaluate the reasonableness of the request.

Ms. Coppola asked if the alteration of premise requires a line of site for the additional spaces, as the field house is quite a distance from the main stadium. She feels that they could still have functions under one day licenses.

Mr. Nolan noted that high end alcohol is served at corporate events and they would not be covered under One Day Beer and Wine Licenses so those would not be sufficient for their needs.

Atty. Miller noted that there is no line of site requirements, just a control of the premises. They have control through their security procedures. He also noted that MGL Chapter 138 Section 12 refers to stadium licensing.

Mr. Gray asked if events requiring a ticket at the Dana Farber Field House would be under the lease agreement for the stadium. The lease has a perimeter that does not include this whole area. Mr. Nolan stated that during game days, no one is allowed in the field house without a ticket. Mr. Gray stated that he was referring to charity games.

Atty. Cobrey stated that the stadium license ends at the stadium. Mr. Nolan stated that there is an All Agency meeting every Thursday before events that reviews all security programs for the event which is based on the number of patrons.

Ms. Brue asked what the requirements are for a One Day All Alcohol License. Atty. DeLuca stated that those licenses are for non-profits only. All One Day licenses are limited to 30 per year annually.

Mr. DeVellis asked what happens if there is a function at the field house and a violation occurs, would the stadium be assessed a one day suspension if warranted.

Atty. Cobrey stated that they do a very good job and are responsible for all transactions; this would be extended to events at the field house also.

Mr. Nolan stated that the same standards are applied to all events no matter how big or small.

Mr. Gray asked if there are any other plans for expansion. He was told that there are no plans for expansion at this time as they would need to move the fence line.

Ms. Brue asked if the purpose of this transfer is to free up the liquor license at the field house. Atty. Cobrey stated that the purpose is to be able to serve alcohol at all locations. The field house is not open every day and there are no plans to change that and there will be no greater intensity of the use of the field house.

Mr. Sullivan asked if there are any penalties for under utilized licenses. Atty. DeLuca stated there are only regulations for abandoned licenses, which is not the case here.

A motion to accept the alteration of premise as submitted was made by Mr. Gray and seconded by Ms. Brue for discussion. The Board discussed the pros and cons of the granting of the request.

Atty. Cobrey stated that this request would result in the creation of 125 new jobs and \$75,000 in tax revenue for the town.

Atty. DeLuca noted that the Board is not compelled to approve the alteration of premise to allow the moving of the license.

Mr. DeVellis stated that he would prefer one license instead of requests for One Day licenses.

Ms. Coppola stated that she feels they would be extending the same privileges of the three licenses under one with two additional locations.

Mr. Brue feels the area covered by the license would be too large, from 24 acres to 140 acres.

The motion was withdrawn by Mr. Gray and Ms. Brue.

A motion to accept the new premise plan with consideration whether the fencing and other proposed modifications enable the licensee to maintain control, along with considering traffic, noise, size and type of operation involved, and the reputation of the applicant was made by Mr. Gray and seconded by Mr. DeVellis. The motion failed by a 2-3 vote with Mr. Gray, Ms. Brue and Ms. Coppola in opposition.

Continued Public Hearing – Transfer of All Alcohol Restaurant License, Change of Location, Pledge of License and Stock from Foxboro Realty Associates LLC to SV Patriots Place

This hearing was closed on October 29, 2013. Mr. Sullivan would like to reopen the hearing to see if there are any more public comments to be made.

A motion to reopen the Public Hearing was made by Mr. DeVellis and seconded by Mr. Gray. The motion carried 5-0-0.

There were no public comments.

A motion to close the Public Hearing was made by Mr. Gray and seconded by Ms. Brue. The motion carried 5-0-0.

Mr. Gray stated that he called the Texas Splitsville location and asked about the hours, the type of bar and restaurant. He was told it is a bar and restaurant with a bowling theme.

Mr. Revelle noted that there are no leagues or organized bowling as this is meant as entertainment bowling. This is not a bowling alley.

Mr. Gray also looked at the Howl at the Moon website and their interactive video. He feels that they have a party theme with large drinks and are not a family environment.

Mark Gibson stated that the Splitsville would not have the big drinks or the jello shots of the Boston Howl at the Moon location. This is a different environment with a smaller entertainment area than the Boston location with a different context.

Mr. Holian stated that this would not be a Howl at the Moon location, they would only use their live proprietary entertainment because of the quality of the entertainment, it would be 98% Splitsville and 2% Howl at the Moon. These are career entertainers.

The Board asked if they could have Splitsville without Howl at the Moon. They were told that the location would be 30% bowling and 70-75% food and alcohol.

The Board asked about the maximum capacity. This needs to be determined by the Building Commissioner and the Fire Department.

Ms. Brue stated that she likes the Splitsville concept, it is the Howl at the Moon concept she is having a problem with as it would be the focus of Public Safety. The staffing of the police was discussed last week; she is concerned with adding a large number of people at the venue.

Mr. Revelle stated that there is live entertainment at other Splitsville markets that is not Howl at the Moon. This will be the same layout as those other markets but with better entertainment.

Ms. Coppola stated that she is also concerned with the Howl at the Moon brand.

Mr. DeVellis stated that he likes the combination of Splitsville with Howl at the Moon but feels it may be changed over time depending upon the demand. He feels that the positives are the jobs and taxes created for the town, but the negatives are the demands on Public Safety.

Mr. Sullivan asked about the Howl at the Moon entertainers. Mr. Holian stated that they are employees that do not play for other venues; they are on the Howl at the Moon payroll.

Mr. Sullivan is also concerned with Public Safety but notes that they are willing to make a \$4.5 million commitment to the location.

Mr. Early noted that there have been discussions and meetings since last week and he had three meetings with the Police Chief. They discussed the fact that there are anywhere from 8 – 12 detail officers at Patriots Place on weekends and some weeknights and the need for communication between them and stadium security. A supervisory level person is needed to coordinate the operation.

Chief O'Leary stated that he met with Mr. Early, Dan Murphy, Randy Scollins and Mr. Sullivan to discuss a process for policing strategy at Patriots Place. The communication among officers needs a commanding level officer to control the operation. Currently it is the Shift Officer in charge for the whole town that is responsible for the detail officers too. A draft concept was prepared which will help improve the operations at Patriots Place in advance of any new openings there. The Command Officer will be one of the Lieutenants and they will be granted access to office space for use as a command center. This Lieutenant will be paid on a detail basis and there will be no additional personnel added to the police department.

Mr. Sullivan feels that this is a proactive step especially with the holidays coming up.

The Board discussed the alcohol density at Patriots Place and the need to mitigate the impact to Public Safety. Ms. Brue stated that if there is an incident a patrol car needs to be taken off of town streets to go up there.

A member of the public wished to comment.

A motion to open the Public Hearing was made by Mr. DeVellis and seconded by Ms. Brue. The motion carried 5-0-0.

Linda Walsh of 8 Pond Avenue, former Selectmen, stated that the stadium personnel and the police department are being proactive and working together and putting Public Safety first without the addition of Splitsville.

A motion to close the Public Hearing was made by Mr. DeVellis and seconded by Ms. Brue. The motion carried 5-0-0.

The Board members discussed mitigation. It needs to be tied to a purpose to be appropriate. When the 12 licenses were granted to the stadium, a committee looked at the impact and an

agreement was made that the town would receive \$140,000 per year until 2018. Ms. Brue feels that the impact on Public Safety does not go away and would like to see the payment continue in perpetuity.

A five minutes recess was called at 9:45 p.m.

The Board reconvened at 9:50 p.m.

Ms. Brue stated that she met with Dan Murphy along with Ms. Coppola last Thursday and asked him about mitigation related to the volume of calls and a stretched thin department as they would like to add another large venue. Mr. Scollins explained the policing finances and Mr. Murphy was supposed to get back to her. She has concerns on the impact to the rest of the community with the additional traffic among other things. All of the current mitigation money is fully expended when seven additional officers were added soon after Patriots Place opened. She feels that another additional permanent officer is needed but with the mitigation being discontinued in 2018 this would not be possible.

Mr. Early stated that the plan worked out with the Chief would be analyzed both over the short and long term but that further mitigation would not be appropriate at this time.

The motion to approve the transfer of the All Alcohol Restaurant License, Change of Location, Pledge of License and Stock from Foxborough Realty Associates LLC to SV Patriot Place LLC dba Splitsville Patriot Place was made by Mr. Gray and seconded by Ms. Brue. The motion failed 2-3-0 with Mr. Gray, Ms. Brue and Ms. Coppola opposed and Mr. Sullivan and Mr. DeVellis in favor of.

The meeting was adjourned at 9:58 p.m.

Respectfully Submitted,

Diana Gray

John R. Gray, Clerk